

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEMAR GAYLE,

Plaintiffs,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
GIUSEPPE GIUCA, POLICE OFFICERS JOHN DOES 1
& 2,

Defendants.

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

07-CV-10715 (GEL)(RLE)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/6/08

WHEREAS, plaintiff KEMAR GAYLE commenced this action by filing a complaint in or about November 30, 2007 alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations;

WHEREAS, plaintiff and defendant now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, no party herein is an infant or incompetent for whom a committee has been appointed; and

WHEREAS, plaintiff KEMAR GAYLE has authorized counsel to settle this matter as against defendants on the terms enumerated below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed as against defendant, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum **Twenty Five Thousand Dollars (\$25,000)** in full satisfaction of all claims as against defendant City of New York, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the defendants City of New York and Giuseppe Giuca, and any present or former employees or agents of the City of New York from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiff KEMAR GAYLE shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No/Concerning Liens.

4. Other than as set forth in paragraph "2" above, plaintiff and her counsel, or any party in privity with either of them, shall have no recovery for any damages, injury, equitable or other relief, or fees or costs in connection therewith.

5. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.


7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
March 5, 2008

Mr. Richard Cardinale, Esq.
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By: 
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By: 
BROOKE BIRNBAUM
Assistant Corporation Counsel

SO ORDERED:


U.S.D.J.
3/6/08